



CNR: KAHC010444902019

NC: 2026:KHC:46811
CRL.P No. 7472 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 29TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE RAVI V HOSMANI
CRIMINAL PETITION NO.7472 OF 2019

BETWEEN:

MATHEW JOSHUA
S/O SRI JOSHURA K K
AGED ABOUT 71 YEARS
R/A "KARAYORAM",
PANDIT KARUPPAN ROAD
THEVARA, KOCHI
KERALA - 682 013.

(NOT MATHEW JOSWA
HEGGALA VILLAGE
VIRAJPET TALUK, KODAGU
AS SHOWN IN THE F I R)

...PETITIONER

(BY SRI S G BHAGAVAN, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY THE STATION HOUSE OFFICER
VIRAJPET TOWN POLICE STATION
VIRAJPET CIRCLE, KODAGU - 571 218.
2. THE TAHSILDAR
OFFICE OF THE TAHASILDAR AND
DISTRICT MAGISTRATE
VIRAJPET TALUK, VIRAJPET - 571 218
KODAGU DISTRICT.

...RESPONDENTS

(BY SRI SURYA MUKUNDARAJ L., ADDL. SPP FOR R1 & R2)

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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THIS CRL.P IS FILED U/S.482 OF CR.P.C. PRAYING TO QUASH THE ENTIRE INVESTIGATION IN CRIME NO.59/2019 DATED 03.08.2019 OF VIRAJPET TOWN POLICE STATION, VIRAJPET CIRCLE, KODAGU, REGISTERED FOR OFFENCE P/U/S.409 AND 420 OF IPC IN SO FAR THE PETITIONER AS ACCUSED NO.3 IS CONCERNED.

THIS PETITION, COMING ON FOR *HEARING ON I.A.*, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging registration of FIR in Crime no.59/2019 dated 03.08.2019 by Virajpet Town Police Station, Kodagu for offences punishable under Sections 409 and 420 of Indian Penal Code, 1860 (**IPC**), this petition is filed.

2. Sri S.G. Bhagavan, learned counsel appearing for petitioner submitted that petitioner was arraigned as accused no.3 in complaint filed by respondent no.2 - Tahsildar (complainant) alleging that land bearing Sy.no.211/1 measuring 88.27 acres; Sy.no.211/16 measuring 30.60 acres; Sy.no.211/2 measuring 566.34 acres; Sy.no.211/3 measuring 444.70 acres; Sy.no.211/4 measuring 115.24 acres;



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Sy.no.211/5 measuring 18.40 acres; Sy.no.211/6 measuring 21.90 acres and in Sy.no.211/15 measuring 3.30 acres totalling to 1288.75 acres was a reserved forest, assigned on lease to Portland Rubber Company. Said right was transferred to Coorg Rubber Company on 20.06.1944.

3. It was submitted, later under registered Sale Deed dated 25.03.1980, Mr. K. Kora and Mr. Matthew Joswa representing Portland Rubber Company alienated an extent of 88.27 acres in Sy.no.211/1; 30.60 acres in Sy.no.211/16 and name of purchasers mutated under ME no.10/1980-81 on 06.03.1981. Subsequently, in Official Memorandum by Deputy Commissioner, Kodagu, a direction was issued to prosecute Revenue Inspector and Village Accountant, who were in-charge as on date of mutation and therefore, complaint was filed. Said complaint was registered as Crime no.59/2019 by Virajpet Town Police Station. Assailing same, this petition filed.

4. It was submitted that there would be no basis for registration of FIR and arraignment of petitioner for either offence under Sections 409 or 420 of IPC. Petitioner was not a



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public servant, banker, merchant or agent as would fall within ambit of Section 409 of IPC. Even insofar as offence under Section 420 of IPC, it was submitted, there was no allegation of dishonest intention to induce delivery of property from inception. It was submitted, grievance espoused in complaint was basically against certifying mutation by concerned Revenue Inspector and Village Accountant and arraignment of petitioner would not be justified and same amounts to abuse of process and in absence of any allegation about participation or contribution by petitioner in process of mutation entry. Complaint at best referred to petitioner (accused no.3) as one of executants of sale deed on 25.03.1980. On said grounds, sought for quashing.

5. Sri Surya Mukundaraj L., Addl. SPP for respondents - State opposed petition. It was submitted that as per complaint, in year 1936 an extent of 1288.75 acres was granted on lease to Portland Rubber Company. Said right was transferred in favour of Coorg Rubber Company in 1944. Therefore, subsequent execution of sale deed by accused no.2 and accused no.3 (petitioner) as representatives of Portland



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Rubber Company would be an illegal act. It was submitted, since petitioner had acted as representative of Company and executed sale deed, though land was reserved forest was illegal. Hence, initiation of proceedings would be justified and sought for dismissal.

6. Heard learned counsel and perused material on record.

7. This petition is by petitioner (accused no.3) for quashing of FIR for offences punishable under Sections 409 and 420 of IPC. In order to attract Section 409 of IPC, act of criminal breach of trust is required to be established committed by a public servant or by a banker, merchant or agent.

8. In instant case, allegation at best is about petitioner acting as representative of Company in execution of sale deed. Even insofar as offence under Section 420 of IPC, it is settled law that dishonest intention is required to be established from inception. There is no allegation that petitioner knowing fully had executed sale deed was with prior knowledge about lack of title or otherwise. In any case, thrust of complaint is



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certification of mutation without proper verification by concerned Revenue Inspector and Village Accountant. In view of above, essential ingredients for either of offences cannot be stated to be contained in complaint insofar as petitioner is concerned.

9. Hence, petition is ***allowed***; FIR in Crime no.59/2019 by Virajpet Town Police Station, Kodagu for offences punishable under Sections 409 and 420 of IPC stands ***quashed*** in respect of qua petitioner (accused no.3).

In view of disposal of petition, IA no.1/2022 is dismissed as unnecessary.

Sd/-
(RAVI V HOSMANI)
JUDGE

GRD
List No.: 1 Sl No.: 8